



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 31, 1998

Ms. Joni M. Vollman  
Assistant General Counsel  
Harris County District Attorney's Office  
201 Fannin, Suite 200  
Houston, Texas 77002-1901

OR98-0846

Dear Ms. Vollman:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 113806.

The Harris County District Attorney's Office received a request for information relating to case number 738937. You state that you have released some of the requested information. You have submitted the remaining information, designated exhibits A through C, to this office for review. You contend that this information is excepted from disclosure under sections 552.101, 552.108, and 552.117 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

You claim that exhibit A is excepted from disclosure under section 552.108 of the Government Code. Section 552.108(a)(3) provides that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from required public disclosure if it is information that is either (1) prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation, or (2) reflects the mental impressions or legal reasoning of an attorney representing the state. You state that the documents labeled exhibit A constitute the work product of the prosecutors. Exhibit A includes the handwritten and typed notes of the prosecutors and their investigators, the cover folder of the prosecutor's file, and the D.I.M.S. sheet. We agree that section 552.108(a)(3) is applicable to these documents.

We note, however, that basic information about a crime, which consists of information normally found on the front page of an offense report, is generally considered public. *See generally* Gov't Code § 552.108(c); *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976);

Open Records Decision No. 127 (1976). You indicate that you have already released the front page offense report information to the requestor. Although section 552.108(a)(3) authorizes you to withhold the information in exhibit A from disclosure, you may choose to release all or part of the information that is not otherwise confidential by law. *See* Gov't Code § 552.007.

Exhibit B consists of criminal history reports that you contend are excepted from disclosure under section 552.101 of the Government Code. Section 552.101 applies to information that is made confidential by law, including information made confidential by statute. Title 28, Part 20 of the Code of Federal Regulations governs the release of criminal history record information ("CHRI") which states obtain from the federal government or other states. Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* Section 411.083 of the Government Code deems confidential CHRI that the Department of Public Safety (the "DPS") maintains, except that the DPS may disseminate such records as provided in chapter 411, subchapter F of the Government Code. *See also* Gov't Code § 411.087 (entities authorized to obtain information from DPS are authorized to obtain similar information from any other criminal justice agency; restrictions on disclosure of CHRI obtained from DPS also apply to CHRI obtained from other criminal justice agencies). Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release the information except to another criminal justice agency for a criminal justice purpose, *id.* § 411.089(b)(1). Other entities specified in chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release the information except as provided by chapter 411. *See generally id.* §§ 411.090-.127. Thus, any CHRI generated by the federal government or another state may not be made available to the requestor except in accordance with federal regulations. *See* Open Records Decision No. 565 (1990). Furthermore, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with Government Code chapter 411, subchapter F. Finally, we note that the compilation of CHRI by any governmental entity implicates the individual right to privacy. *See United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989).

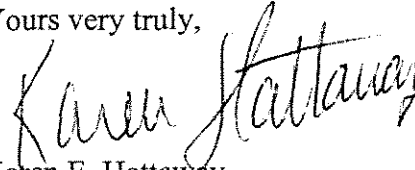
Exhibit C contains the home telephone numbers and pager numbers of peace officers. Section 552.117(2) provides for the confidentiality of the home addresses, home telephone numbers, and social security numbers of peace officers, as well as information that reveals whether the peace officer has family members. You must withhold the peace officers' home telephone numbers listed in exhibit C from disclosure. In Open Records Decision Number 506 (1988), this office stated that one purpose of section 552.117 is to protect public officials and employees from being harassed while at home. *Id.* at 5. We agree that the peace officers' pager numbers must also be withheld from disclosure.<sup>1</sup>

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<sup>1</sup>We assume for purposes of granting section 552.117 that the pagers were purchased and are privately owned by the peace officers. *See* Open Records Decision No-506 (1988) at 5-6 (statutory predecessor to section 552.117 does not apply to cellular mobile phone numbers paid for by county and intended for use at work for county business; different considerations apply if employee pays for purchase and installation of and calls to and from mobile phone in his private vehicle and simply seeks reimbursement for calls made on county business).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have any questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, reading "Karen Hattaway". The signature is written in a cursive, flowing style.

Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

KEH/ch

Ref: ID# 113806

Enclosures: Submitted documents

cc: Mr. Billy C. Phillips  
2526 Straight Creek  
Houston, Texas 77017  
(w/o enclosures)